THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21126 OF 2006

DATED 13th OCTOBER, 2006

BETWEEN

M.Prasuna and others

… Petitioners

and

The District Collector, Nellore, Nellore District and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21126 OF 2006

ORDER:

The three petitioners are allegedly owners of agricultural lands in survey Nos.439 to 449, 461, 462, 463/1, 469/1 and 470 admeasuring Acs.99.61 cents situated at Eeduru Bit-I village (Mallikarjunapuram Gram Panchayat), Totapalli Gudur Mandal in Nellore District. They filed the writ petition seeking a writ of Mandamus declaring the action of the respondents in demolishing the petitioners' fish ponds as illegal and arbitrary.

It is the case of the petitioners that they are owners of patta lands. They allegedly obtained permission from Mandal Revenue Officer for conversion of the agricultural lands into fish tanks in 1996 and carrying on their activity by erecting filter points. When the respondents 1 to 3 tried to interfere with the possession and enjoyment of the fish tanks, the petitioners statedly filed O.S.No.555 of 2000 on the file of the Court of the III Additional Junior Civil Judge, Nellore, and obtained an injunction. Though the injunction is operating, the respondents proclaimed in a press statement in October, 2006, that fish tanks in Eeduru Koduru tank FTC limits would be demolished as per the orders of this Court. The petitioners approached the third respondent and submitted representation. In spite of the same, it is alleged, the respondents are demolishing the fish tanks. Therefore, the present writ petition is filed.

After hearing the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue (General), this Court holds that the question raised herein is no more *res integra.* A Division Bench of this Court in **Madireddy Padma Rambabu v District Forest Officer, Kakinada**[1] has considered the question whether owner of agricultural land is entitled to convert such agricultural land into aquaculture/fish culture/prawn culture lands. The Division Bench relied on the decision of the Supreme Court in **S.Jagannath v Union of India**[2] and dismissed the first group of writ petitions decided therein, in which the action of the revenue/forest officials prohibiting fish culture/shrimp culture was assailed. The Division Bench allowed the second batch of writ petitions, in which the agriculturists complained

about fish culture/shrimp culture undertaken by the farmers in the surroundings. The Division Bench further observed as under.

> For the reasons aforementioned the first group of writ petitions are dismissed. The second group of writ petitions are allowed with a direction upon the respondents not to allow any person to carry on the activities of shrimp culture or prawn culture or any type of aquaculture without obtaining the prior permission from the competent authority as referred to hereinbefore and insofar as they are applicable in the case of particular persons upon strict compliance with the directions issued by the Apex Court in **Jagannath** case (supra).

The Division Bench while dealing with the land tenures came to the conclusion that no person can convert agricultural lands into non-agricultural lands without permission from the competent authority. It is not denied before this Court that the petitioners have not obtained any permission from aquaculture authority, which is alone competent to grant permission. Therefore, the petitioners cannot rely on the permission granted by the Mandal Revenue Officer in 1996.

Following the Judgment of the Division Bench in **Madiraju Padma Rambabu** (supra), the writ petition is dismissed. No costs.

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(V.V.S.RAO,J)

13.10.2006.
pln

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[1] 2002(1) ALD 728 (DB) =

[2] AIR 1997 SC 811